

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

United States of America	)	
	)	Cr. No. 7:05-526-HMH
vs.	)	
	)	<b>OPINION &amp; ORDER</b>
Todd Lamar Moss,	)	
	)	
Movant.	)	

This matter is before the court on the Todd Lamar Moss’ (“Moss”) motion to disclose exculpatory evidence and request for an appearance bond. Moss “requests this Court to order the Government to comply with Brady.” (Mot. Disclose 1.) Specifically, Moss seeks “a copy of the above case grand jury ballot and grand jury minutes.” (Id.) Moss argues that the Government’s failure to comply with his request for the grand jury ballot and minutes will result in a Brady violation. (Id.)

Moss pled guilty to conspiracy to possess with intent to distribute 100 grams or more of heroin on August 25, 2005. On November 1, 2005, Moss was sentenced to 151 months’ imprisonment. The United States Court of Appeals for the Fourth Circuit affirmed Moss’ conviction and sentence on August 31, 2006. United States v. Moss, No. 05-5133, 2006 WL 2520299, at \*1 (4th Cir. Aug. 31, 2006) (unpublished). Moss filed a motion pursuant to 28 U.S.C. § 2255 on July 1, 2008, which this court summarily dismissed on July 10, 2008. (July 10, 2008 Order.)

“A Brady violation occurs when the government fails to disclose evidence materially favorable to the accused.” Youngblood v. West Virginia, 547 U.S. 867, 869 (2006). Moss has not alleged or included any information alleging that, prior to pleading guilty, he requested the grand jury ballot or minutes and was denied his request. Further, Moss has not alleged that the requested grand jury material contains exculpatory evidence. Additionally, Moss never raised a Brady violation claim in his direct appeal of his conviction and sentence or in his § 2255 motion.

“The court may authorize disclosure . . . of a grand-jury matter preliminarily to or in connection with a judicial proceeding.” Fed. R. Crim. P. 6(e)(3)(E)(i). Currently, there is no ongoing judicial proceeding concerning Moss’ criminal case. Moss does not have a pending motion pursuant to 28 U.S.C. § 2255 and there is no other current judicial proceeding. As such, Moss’ motion requesting the Government to disclose the grand jury ballot and grand jury minutes from his criminal case is denied. Moss’ request to appear to argue the motion is denied as moot.

Therefore, it is

**ORDERED** that Moss’ motion to disclose exculpatory evidence, docket number 192, is denied. It is further

**ORDERED** that Moss’ motion for an appearance bond, docket number 194, is denied as moot.

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
Senior United States District Judge

Greenville, South Carolina  
July 29, 2010

**NOTICE OF RIGHT TO APPEAL**

The Movant is hereby notified that he has the right to appeal this order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.